

Chapter 1
OVERVIEW**Chapter Contents**

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Chapter 1 OVERVIEW

The education of students with disabilities is firmly rooted in the constitutional guarantees involved in the “protection of vulnerable minorities.” This relationship means that the provision of services to students with disabilities is a basic civil right protected by the Constitution. Three federal laws have been passed to ensure these constitutional guarantees for individuals with disabilities:

- ▶ the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004)
- ▶ Section 504 of the Rehabilitation Act of 1973 (Section 504)
- ▶ the Americans with Disabilities Act of 1990 (ADA)

The reauthorization of the IDEA 2004 was aligned with the Elementary and Secondary Education Act of 2001—also known as the No Child Left Behind (NCLB) Act. The IDEA 2004 preserves the basic structure and civil rights of previous reauthorizations and emphasizes both *access* to education and *improved results* for students with disabilities based on data and public accountability.

This manual provides detailed information regarding district responsibilities under the IDEA 2004 and the IDEA regulations of 2006, which took effect on October 13, 2006.

Section 1. Child Find

The district is responsible for establishing and implementing an ongoing Child Find system. Child Find activities are conducted (1) to create public awareness of special education programs, (2) to advise the public of the rights of students, and (3) to alert community residents of the need for identifying and serving students with disabilities from the age of 3 through the semester in which they turn 21.

The district is also responsible for coordinating with the Department of Health and Welfare regarding the Child Find system for children ages birth through 2 years. The Child Find system includes children with disabilities who are homeless, as defined by the McKinney-Vento Homeless Act (see Glossary), wards of the state, or attending private schools, regardless of the severity of the disability.

See Chapter 3 for more information on Child Find.

Section 2. Procedural Safeguards

A parent and/or adult student has specific procedural safeguards assured by the IDEA 2004 and state law. The district provides a document titled *Procedural Safeguards Notice* to parent and/or adult students that contain a full explanation of special education rights.

See Chapter 11 for more information on procedural safeguards.

Section 3. Student Eligibility under the IDEA 2004

The existence of a disability or medical diagnosis does not, by itself, mean that a student is eligible under the IDEA 2004. To be eligible for services under the IDEA 2004, a student must have a disability that:

1. meets the state disability criteria;
2. adversely affects educational performance; and
3. results in the need for special education, that is, specially designed instruction.

The process used to make this determination is called “eligibility evaluation.” During an eligibility evaluation, an evaluation team (which includes educators and the parent and/or adult student) reviews information from multiple sources including, but not limited to, general education interventions, formal and informal assessments, and progress in the general curriculum.

See Chapter 4 for more information on eligibility and evaluation.

Section 4. Free Appropriate Public Education (FAPE)

The local education agency (district) is required to ensure that a free appropriate public education (FAPE) is available to students who reside in the district and are eligible for special education. FAPE is individually determined for each student that qualifies for special education. FAPE *must* include special education in the least restrictive environment (LRE) and *may* include related services, transition services, supplementary aids and services, and/or assistive technology devices and services. A definition of each of these terms can be found in the glossary.

See Chapter 2 for more information on FAPE.

Section 5. District Programs and Services

The district shall ensure that the same array of academic, nonacademic, and extracurricular activities and services is available to students with disabilities as is available to students without disabilities.

A. Educational Programs and Services

The district shall take steps to ensure that students with disabilities have the variety of educational programs and services that are available to all other students served by the district. These may include art, music, industrial arts, consumer and homemaking education, vocational education, and other programs in which students without disabilities participate.

B. Physical Education

Physical education services, specially designed if necessary, shall be made available to every student with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

C. Nonacademic and Extracurricular Services and Activities

The district shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the student's Individualized Education Program (IEP) Team, to provide nonacademic and extracurricular services and activities in a manner that affords students with disabilities an equal opportunity to participate in those services and activities. This includes counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district, referrals to agencies that provide assistance to persons with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available.

Section 6. Individualized Education Program (IEP)

The IEP is a document that outlines how a particular student with a disability will receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). It is a working document that can be amended as the student's needs change. The IEP is created collaboratively by IEP team members, including parents, the student, if appropriate, the student's teachers and other district personnel.

See Chapter 5 for more information on IEP development.

Section 7. Least Restrictive Environment (LRE)

The IDEA 2004 states that, to the maximum extent appropriate, students with disabilities are to be educated with students who are not disabled. The IEP team should consider what constitutes LRE for the individual student. This includes considering that a continuum of alternative placements is available to meet the needs of children with disabilities and for special education and related services.

See Chapter 6 for more information on LRE.

Section 8. Summary of Activities That May Lead to Special Education Services

This section describes the steps that may lead to special education services. The activities that are within each step are often sequential, but could occur simultaneously. The process might occur in a different sequence for emergency or interim placements. A flowchart of these steps is provided at the end of this chapter.

A. General Education Interventions (carried out by the problem-solving team)

A general education problem-solving team addresses student learning needs and ensures that referrals to consider special education are appropriate. The general education problem-solving process may include early intervening services based on whole-school approaches such as: a three-tiered model using scientifically based reading (and other content area) programs, positive behavior supports, and a response-to-intervention system. Accommodations and instructional interventions shall be attempted during the problem-solving process. These accommodations and interventions shall be of sufficient scope and duration to determine the effects on the student's educational performance and shall be clearly documented.

If the student shows adequate progress with general education interventions and accommodations, a referral to consider a special education evaluation may be unnecessary. However, if general education interventions and accommodations need to be provided on an ongoing basis or if the student shows limited or no progress *and* the student's performance is significantly discrepant from peers, a referral to consider a special education evaluation may be warranted.

See Chapter 4 and Appendixes 3 and 4 for more information on problem-solving activities and the three tiered model.

B. Referral to Consider a Special Education Evaluation

Following the problem-solving team's review of the student's response to general education interventions, if the team suspects that the student has a disability that adversely impacts his or her education, the problem-solving team shall initiate a referral to consider a special education evaluation. The purpose of this referral is to bring a student to the attention of an evaluation team so that it can determine whether to conduct a special education evaluation.

A referral to consider a special education evaluation marks the point at which procedural safeguards are activated. The parent and/or adult student shall be involved in decisions once a written referral has been made to the evaluation team to consider a special education evaluation.

The evaluation team shall review existing data, including assessments and information provided by the parent and/or adult student, to determine the need for further assessment.

See Chapter 3 for more information on the referral process to consider a special education evaluation and who can make a referral.

C. Written Notice and Consent (completed by an evaluation team)

Before administering assessments as part of the special education evaluation, written notice shall be provided to the parent and/or adult student and written consent shall be obtained from the parent and/or adult student. The district may use a single form that meets the requirements of written notice and consent for assessment. In addition, if the evaluation team needs information for an evaluation from a non-educational agency or an individual, such as a doctor, written consent for the release of information shall be obtained from the parent and/or adult student. See Chapter 4 and Chapter 11 for more information.

D. Evaluation and Eligibility Determination (completed by evaluation team)

After receiving consent, the evaluation team shall schedule assessments and ensure they are conducted. Next, the evaluation team reviews the assessment data, the response to general education interventions, and parent and/or adult student input and recommendations to determine whether the student is eligible for special education services. Then the evaluation team compiles an *Eligibility Report* using data collected from individual assessments and provides the parent and/or adult student with a copy of the report.

If the student is not eligible, the district shall provide written notice to the parent and/or adult student that the data does not indicate eligibility under the IDEA 2004. The district shall maintain documentation in permanent records. (A student ineligible under the IDEA 2004 may be considered to have a disability under Section 504.)

If the parent and/or adult student disagrees with the district's evaluation and/or the eligibility determination, he or she has the right to request mediation, file a due process hearing challenging the decision, or seek an independent educational evaluation (IEE). See Chapter 11 for more information.

E. IEP Development and Implementation (completed by IEP team)

The time between receiving consent for assessment and implementing the IEP cannot exceed 60 calendar days, excluding periods when regular school is not in session for five or more consecutive school days. The parent and district may agree in writing to extend the 60-day period

for the purpose of initial assessment as long as federal IDEA 2004 time requirements are met. See Chapter 4 for guidance on timeline exceptions.

The following activities are included in the development and implementation of the IEP:

1. Conduct an IEP team meeting to develop an IEP within 30 calendar days of a determination that the student is eligible for special education and related services. For eligible students, the IEP can be developed at the same meeting at which eligibility is determined if all required IEP team members are present and agree to proceed.
2. After determining goals and services, determine the placement in the LRE in which the IEP can be implemented. For those goals that are aligned to the alternate standards, benchmarks/objectives shall be written.
3. Obtain documentation indicating participation in the IEP team meeting.
4. Obtain consent from the parent and/or adult student for initial placement in special education.
5. Provide copies of the IEP to the parent and/or adult student and other participants, as appropriate.
6. Provide written notice to the parent and/or adult student before implementing the IEP if the provision of FAPE or the educational placement is proposed to change.
7. Make arrangements for IEP services by informing staff of their specific responsibilities under the IEP.
8. Implement the IEP as soon as possible after it is developed.
9. Provide the parent and/or adult student with periodic reports of the student's progress towards IEP goals (such as quarterly or other periodic reports, concurrent with the issuance of report cards).

See Chapter 5 for more information on IEP development.

F. Review and Revision of IEP and Placement Decision (completed by IEP team)

1. Send the parent and/or adult student a *Procedural Safeguards Notice* with an invitation to attend an IEP meeting (required at least once annually).
2. Convene an IEP team meeting under these circumstances:
 - a. when changes in the IEP are requested or if the student is not making progress; and
 - b. at least annually to review eligibility, develop a new IEP, and determine placement.

3. Provide a copy of the revised IEP to the parent and the adult student when an IEP is amended or rewritten and when the student is no longer eligible for special education services. In addition, written notice is required if the district is proposing to change or refusing to change the educational placement and/or provision of FAPE.
4. Under Idaho regulations, the parent and/or adult student has the right to file a written objection to changes proposed by the district. If, within 10 calendar days of receiving written notice from the district, the parent and/or adult student files a written objection to all or part of the proposed IEP or placement, the district shall not implement the changes to which the parent and/or adult student objects. See Chapter 11 for more information.

See Chapter 5 for more information on IEP reviews.

G. Reevaluation (completed by evaluation team)

Reevaluations are conducted by the evaluation team. A reevaluation to determine whether a student continues to be eligible for special education services is completed as follows: (a) at least every three years, (b) when requested by the student's teacher or the parent and/or adult student, and (c) whenever conditions warrant. Approximately one month before conducting the reevaluation, the district shall inform the parent and/or adult student that a reevaluation is due. The parent and/or adult student and district may agree in writing that a three-year reevaluation is not necessary. In addition, a reevaluation need not be conducted more than once per year unless the district and the parents agree.

The evaluation team shall include the following activities in the reevaluation process:

1. Invite the parent and/or adult student to participate in the review of existing data and to determine what additional data, if any, is needed as part of the reevaluation. Unless the parent and/or adult student requests that the evaluation team members meet as a group in a formal meeting, data can be gathered from individual team members at various times using a variety of methods.
2. Obtain written consent from the parent and/or adult student if additional assessments shall be conducted. After gaining consent, ensure the completion of assessments and eligibility reports.
3. If the evaluation team determines that additional assessments are not needed, provide written notice to the parent and the adult student of this decision and of the parent and/or adult student's right to request assessments.
4. Prepare an *Eligibility Report* that details the eligibility requirements for the student, even when no new assessments are conducted. The report shall address each required eligibility component.

5. Provide the parent and/or adult student with a copy of the *Eligibility Report*.
6. Develop and implement an IEP, if the student continues to be eligible. If the student is not eligible, follow procedures to discontinue services.

See Chapter 4 for more information on reevaluation.

H. Discontinuation of Services

Provide prior written notice to the parent and the adult student informing them of the discontinuation of services when:

1. The evaluation team determines the student no longer meets eligibility requirements for special education services; or
2. The student meets the district and state requirements that apply to all students for receipt of a regular high school diploma; or
3. The student completes the semester in which he or she reaches the age of 21 years.

When a student exits from special education as a result of graduating or aging out, the district shall provide the student with a summary of his or her academic achievement and functional performance, along with recommendations on how to assist the student in meeting postsecondary goals.

See Chapter 7 for more information on the discontinuation of services.

Chart

General Education Interventions (completed by problem-solving team)

- Team considers components of the three tiered model of Response to Intervention.
- Problem solve, plan and implement interventions and accommodations; document results.

Special Education Activities

A. Child Find Activities
B. Referral to Consider a Special Education Evaluation (completed by problem-solving team and evaluation team) <ul style="list-style-type: none"> ■ Problem-solving team submits a formal referral to consider special education evaluation. ■ Provide the parent and/or adult student with a <i>Procedural Safeguards Notice</i>. (required) ■ Seek parent and/or adult student input and afford opportunity for a meeting. ■ Evaluation team decides whether to conduct further assessments.
C. Written Notice and Consent (completed by the evaluation team) <ul style="list-style-type: none"> ■ Provide written notice to the parent and/or adult student. ■ Seek consent from the parent and/or adult student for assessments. ■ Receive written consent for assessment from the parent and/or adult student.
D. Evaluation and Eligibility Determination (completed by evaluation team) <ul style="list-style-type: none"> ■ Schedule and conduct assessments. ■ Review assessment information with parent and/or adult student. Determine eligibility and complete the <i>Eligibility Report</i>. (Meeting with the entire team is a parent and/or adult student option.) ■ Provide the parent and/or adult student with a copy of the <i>Eligibility Report</i>.
E. IEP Development and Implementation (completed by IEP team) <ul style="list-style-type: none"> ■ Invite the parent and/or adult student to the IEP team meeting. ■ Provide a <i>Procedural Safeguards Notice</i> to the parent and/or adult student. (at least once annually) ■ Develop IEP and determine placement in LRE. ■ Provide a copy of the IEP with written notice to the parent and/or adult student. ■ Receive consent for initial placement from the parent and/or adult student. ■ Implement IEP.
F. Review/Revision of IEP and Placement Decision (completed by IEP team) <ul style="list-style-type: none"> ■ Provide a <i>Procedural Safeguards Notice</i> to the parent and/or adult student if applicable. ■ Invite the parent and/or adult student to the IEP team meeting. ■ Review eligibility, develop an IEP, and determine placement annually. ■ Provide a copy of IEP with written notice to the parent and/or adult student.
G. Reevaluation (completed by evaluation team) <ul style="list-style-type: none"> ■ Inform the parent and/or adult student that reevaluation is due. ■ Provide a <i>Procedural Safeguards Notice</i> to the parent and/or adult student if applicable. ■ Seek parent and/or adult student input on reevaluation and afford opportunity to request a meeting. ■ Receive consent from the parent and/or adult student for assessments if planning to assess OR Provide the parent and/or adult student with written notice that no further assessments shall be conducted if the evaluation team determines that existing information is adequate. Inform parent and/or adult student of his or her right to request additional assessments. ■ Schedule and conduct assessments. ■ Review assessment information with parent and/or adult student. Determine eligibility and complete the <i>Eligibility Report</i>. (Meeting with the entire team is a parent and/or adult student option.) ■ Provide the parent and/or adult student with a copy of the <i>Eligibility Report</i>. ■ Go to steps in Box F or Box H.
H. Discontinuation of Services <ul style="list-style-type: none"> ■ Provide written notice to the parent and/or adult student before discontinuing special education services. ■ Upon graduation provide a summary of performance to the parent and/or adult student.

